Book Review


Several recent events and developments have clearly underscored the importance of languages and language regulation in EC law and also of the need for some attention for minority concerns at the EU level. The attention for these subjects is in any event only growing. The European Year of Languages in 2001 has led to several initiatives aimed at linguistic diversity, while the current Convention, which is preparing the Intergovernmental Conference of 2004 and a constitution for Europe, with its focus on enlargement and the growing importance of fundamental rights within the EC, also grapples with these issues.\(^1\) Recently, the European Commission’s language policy unit has announced a consultation process which started in April 2003 on the promotion of language learning and linguistic diversity, which is related to the European Commission’s broader plan to devise a new approach towards minority languages and linguistic diversity. Similarly regarding minority concerns and the EC, the condition of compliance with minority protection standards for the acceding States has clearly fuelled the more general discussion that also the older Member States should live up to this standard and hence that the EC should get more actively involved in minority protection, not only externally but also internally.\(^2\)

The book of Niamh Nic Shuibhne is thus surely timely. Furthermore, its title promises a threefold perspective on EC law and minority language policy or rather three angles from which the intersection is studied, namely culture, citizenship and fundamental rights.

The book consists of six chapters and a conclusion in Chapter 7. Shuibhne sets the stage in her first chapter by outlining the current language policy of the EC,

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\(^1\) It is generally known that European Bureau for Lesser Used Languages has been vying for the inclusion of a clause on linguistic diversity in the Charter and for the inclusion of language in Article 13 EC.

including the official language policy and the language dimension of fundamental community freedoms. She also assesses the role of the EC concerning the sustenance of linguistic diversity, which also leads her to discuss the value of linguistic diversity more generally. The final section of the first chapter then contemplates the status of minority languages in the EC, and makes the case for an EC responsibility in this respect.

Chapter 2 goes on to describe the origins of EC minority language policy, underscoring the piecemeal but creative evolution of a Community perspective on minority languages. The European Parliament is being depicted as a champion of minority languages, as can be concluded from the Arfé Resolution (1981) on a Community Charter of Regional Languages and Cultures and on a Charter of Rights of Ethnic Minorities, the Arfé Resolution (1983) in favour of Minority Languages and Cultures and the Kuijpers Resolution (1987) on the Languages and Cultures of Regional and Ethnic Minorities in the European Community. However, these resolutions do not have legal effect and have not influenced the other EC institutions extensively. The chapter ends with the evaluation of the first cases of the ECJ concerning the interaction between EC law with minority languages, namely Mutsch (Ministère Public v. Robert Heinrich Maria Mutsch, Case 137/84, [1985] ECR 2681) and Groener (Anita Groener v. Ministery for Education and the City of Dublin Vocational Education Committee, Case C-379/87, [1989] ECR 3967). The author concludes that neither judgment reveals a coherent EC minority language policy, but does establish that Member States are rather free to determine their own language policies, while these are subject to ECJ review in terms of their compatibility with Community law.

Chapters 3 and 4 then trace the extent to which the EC competence concerning culture and cultural policy has potential for the development of a language policy (the first angle). To this effect Shuibhne proceeds with an extensive discussion of Article 151 EC, subsequent to an overview of community action in the field of culture after Maastricht. Where the Community seemed to prefer an incidental approach to cultural policy and focused on those aspects that were interlaced with more general Community competences, the Commission’s activities revealed a gradual change already prior to the adoption of the Treaty of Maastricht introducing Article 151. Article 151 paragraph 4 seems to have considerable potential as competence base for the development of an EC language policy, as it contains an arguably independent objective committing the Community to contribute to cultural diversity in general terms. Nevertheless, Article 151 carries several limitations with it, including the unanimity requirement in the Council, and the fact that measures are limited to incentive measures and recommendations. The policy integration clause of Article 15 paragraph 4 could arguably result in more culturally sensitive Community law, depending on its consistent application. Still, under Article 151 the Member States have considerable discretion, as was further underscored in Parliament v. Council (Case C-42/97).

Chapter 4 focuses on the principle of subsidiarity and its implications for the exercise of competences concerning cultural policy, being a concurrent competence. A critical analysis of Article 5 EC is followed by an application of these criteria to